

**IT IS THE VENDOR'S RESPONSIBILITY TO
CHECK FOR ADDENDA PRIOR TO SUBMITTING PROPOSALS**

**NOTICE TO BIDDERS
SPECIFICATION NO. 04-094**

The City of Lincoln, Nebraska intends to purchase and invites you to submit a sealed bid for:

**THE ANNUAL REQUIREMENTS
FOR
LIGHT EMITTING DIODE (LED) WALK/DON'T WALK
SYMBOL TYPE WITH COUNTDOWN INDICATOR**

**MEETING OR EXCEEDING THE CITY OF LINCOLN
SPECIFICATIONS ATTACHED**

Sealed bids will be received by the City of Lincoln, Nebraska on or before 12:00 noon Wednesday, April 7, 2004 in the office of the Purchasing Agent, 440 South 8th Street, Suite 200, SW Wing, Lincoln, Nebraska 68508. Bids will be publicly opened and read in the Conference Room located on the First Floor.

Bidders should take caution if U.S. mail or mail delivery services are used for the submission of bids. Mailing should be made in sufficient time for bids to arrive in the Purchasing Division, prior to the time and date specified above.

COMPANY NAME _____

PROPOSAL
SPECIFICATION NO. 04-094
BID OPENING TIME: 12:00 NOON
DATE: April 7, 2004

The undersigned bidder, having full knowledge of the requirements of the City of Lincoln for the below listed items and the contract documents (which include Notice to Bidders, Instructions to Bidders, this Proposal, Specifications, Contract, and any and all addenda) and all other conditions of the Proposal, agrees to sell to the City the below listed items for the performance of this Specification, complete in every respect, in strict accordance with the contract documents at and for unit prices listed below.

THE ANNUAL REQUIREMENTS
FOR
LIGHT EMITTING DIODE (LED) WALK/DON'T WALK SYMBOL TYPE WITH COUNTDOWN INDICATOR

BIDDING SCHEDULE

| <u>ITEM</u> | <u>ITEM DESCRIPTION</u> | <u>QUANTITY</u> | <u>UNIT</u> | <u>TOTAL</u> |
|--------------------|---|------------------------|--------------------|---------------------|
| 1. | LED Countdown Walk/Don't Walk Symbol Type with Countdown Indicator | 538 | \$_____ | \$_____ |

BID SECURITY REQUIRED: Yes____ Amount:_____ No **X**

Special provisions for Commodity Term Contracts are included with the specification document. Bidders are urged to read the Special Provisions before completing the following sections of the Proposal.

Contract Extension Renewal is an option: Yes____
No ____

TERM PRICE CLAUSE: **BIDDER MUST STATE**

- (a) Bid prices firm for the full contract period: _____; or _____
(b) Bid prices subject to escalation/de-escalation: _____ .
(c) If (b), state period for which prices will remain firm: _____
Through _____ .

INTERLOCAL PURCHASING: The City/County desires to make available to other local government entities of the State of Nebraska, by mutual agreement with the successful bidder, and properly authorized interlocal purchasing agreements, the right to purchase the same services, at the prices quoted, for the period of this contract. Each bidder shall indicated on the Bid Form in the space provided below if he/she will honor Political Subdivision orders in accordance with the contract terms and conditions, in addition to orders from City of Lincoln/Lancaster County.

_____**YES** _____**NO**

If "YES", Contract supplier or suppliers may honor pricing and extend the contract to political sub-divisions, cities and counties. Terms and conditions of the contract must be met by political sub-divisions, cities and counties. Under no circumstances shall the City of Lincoln/Lancaster County be contractually obligated or liable for any purchases by these political sub-divisions, cities or counties.

COMPANY REPRESENTATIVE responsible for the administration of this Agreement:

NAME: _____
TITLE: _____
PHONE NO. _____

AFFIRMATIVE ACTION PROGRAM: Successful bidder will be required to comply with the provisions of the City's Affirmative Action Policy (Contract Compliance, Sec. 1.16). The Equal Opportunity Officer will determine compliance or non-compliance, upon a complete and substantial review of successful bidder's equal opportunity policies, procedures and practices.

The undersigned signatory for the bidder represents and warrants that he has full and complete authority to submit this proposal to the City, and to enter into a contract if this proposal is accepted.

NOTE:

RETURN 2 COMPLETE COPIES OF PROPOSAL AND SUPPORTING MATERIAL.
MARK OUTSIDE OF BID ENVELOPE AS FOLLOWS:
SEALED BID FOR SPEC. 04-094

COMPANY NAME

BY (Signature)

STREET ADDRESS or P.O. BOX

(Print Name)

CITY, STATE ZIP CODE

(Title)

TELEPHONE

(Date)

EMPLOYER'S FEDERAL I.D. NO.
OR SOCIAL SECURITY NUMBER

ESTIMATED DELIVERY DAYS
(After receipt of individual orders)

TERMS OF PAYMENT

Bids may be inspected in the Purchasing Division offices during normal business hours, **after** tabulation by the purchasing agent. If you desire a copy of the bid tabulation to be mailed to you, you must enclose a self-addressed stamped envelope with your bidding documents. Bid tabulations can also be viewed on our website at: <http://www.ci.lincoln.ne.us/city/finance/purch/specindx.htm>

**CITY OF LINCOLN
TRAFFIC ENGINEERING
SPECIFICATIONS FOR
LIGHT EMITTING DIODE (LED) SIGNAL INDICATIONS**

1.0 **SCOPE**

- 1.1 Annual contract to furnish LED Traffic Signal Indications. Estimated purchases after the first year will be \$10,000.00/year.
- 1.2 Pedestrian signal indications shall be Symbol type Walk & Don't Walk with countdown indicator.
- 1.3 Samples may be required before final approval.

2.0 **GENERAL**

- 2.1 LED pedestrian countdown module designed, as retrofit replacements for existing signal lamps shall not require special tools for installation.
- 2.2 Shall fit in City furnished McCain pedestrian heads.
- 2.3 All indications shall work with Eberly Design Inc, LCD, NEMA+ Conflict monitor, without putting the intersection in flash due to unknown design problems of LED indications. External cabinet loading shall not be acceptable.

3.0 **ENVIRONMENTAL**

- 3.1 The LED countdown module shall be rated for use in the ambient operating temperature range -40c (-40F) to +74c (+165F).
- 3.2 The LED countdown module shall be completely sealed against dust and moisture intrusion per the requirements of NEMA Standard 250-1991 Sections 4.7.2.1 and 4.7.3.2 for Type 4 enclosures to protect all internal components.
- 3.3 The lens shall be UV treated for protection from direct sunlight.

4.0 **CONSTRUCTION**

- 4.1 The LED countdown module shall be a single, self-contained device, not requiring on-site assembly for installation into existing traffic signal housing.
- 4.2 The assembly of the LED countdown module shall be designed to assure all internal components are adequately supported to withstand mechanical shock and vibration from high winds and other sources.
- 4.3 Three secured, color-coded blue (Walk), orange or red (Don't Walk), white (Neutral), 36" long, 18 AWG wire with 300 V rating shall be provided for electrical connections.
- 4.4 Material used for the lens and module construction shall conform to ASTM specifications for the material where applicable.
- 4.5 The module shall be made of UL94VO flame retardant material. The lens of the module is excluded from this requirement.

5.0 **CHROMATICITY**

- 5.1 The standard colors for the LED pedestrian signal module shall be lunar white for the walking person and Portland orange for the Hand Icon. The countdown numbers shall be Portland orange.
- 5.2 The colors for these Icons shall conform to the CIE chromaticity diagram X, Y coordinates as listed in the PTCSI Part 2, Section 4.2.
- 5.3 The chromaticity measurements shall remain unchanged over the input line voltage range of 80VAC to 135VAC.

6.0 **DISPLAY**

- 6.1 The countdown module shall consist of a double overlay message combining the graphics symbols of a hand and walking man and two seven segment digits.
- 6.2 In the graphic symbols, the LED's shall be arranged in a manner to form an outline.
- 6.3 The shape and size of the graphic symbols shall meet PTCSI Part 2 Section 3.2.

- 6.4 The graphic symbols shall meet PTCSI Part 2 Section 4 for luminance, uniformity and distribution.
- 6.5 The countdown numbers shall be at least 6 inches in height.
- 6.6 The graphic symbols and the countdown numbers shall be located on a black opaque background.
- 6.7 The Portland orange LED shall be of the latest ALLnGa P technology and the white LED shall be of the latest In GaN technology.
- 6.8 The individual LED light sources shall be interconnected so that a catastrophic failure of a single LED will result in a total loss of not more than 5% of the signal light output.
- 6.9 The module shall countdown only the pedestrian clearance portion of the pedestrian movement.
- 6.10 The module shall have a switch to disable the countdown function of the module. That portion of the module shall always be blank.

7.0 DRIVE CIRCUITRY

- 7.1 The driver board shall drive the LED's at a DC current not exceeding the maximum rating recommended by the LED manufacturer.
- 7.2 The driver board shall regulate the LED drive current of both hand/man symbols to compensate for line voltage fluctuations over the range of 80VAC to 135VAC.
- 7.3 The luminous output shall not vary more than 10% over the voltage range and shall not be perceptible to the human eye.
- 7.4 The circuitry shall ensure compatibility and proper triggering and operations in signal controllers currently in use by the procuring traffic authority.

8.0 VOLTAGE PARAMETERS

- 8.1 The module shall operate from a 60 +/- 3 Hertz AC Line power over a voltage range from 80VAC RMS to 135VAC RMS.
- 8.2 Low voltage turn off, there shall be no illumination of the module when the applied voltage is less than 35VAC RMS.
- 8.3 Each Icon on the module shall reach 90% of their illumination (turn on) within 75 msec. of the application of the nominal operating voltage.
- 8.4 The module shall not be illuminated (turn off) after 75 msec. of the removal of the nominal operating voltage.
- 8.5 The modules on board circuitry shall include voltage surge protection to withstand high, repetition noise transients and low-repetition, high-energy transients as stated in Section 2.1.6 NEMA Standard TS-2, 1998, or latest version.
- 8.6 The module and associated on-board circuitry shall meet Federal Communications Commission (FCC) Title 47, Subpart B, Section 15 regulations concerning the emission of electronic noise.
- 8.7 The module shall provide a power factor of 0.90 or greater when operated at nominal operating voltage, and 25 degree Celsius (77 degrees F).
- 8.8 Total harmonic distortion induced into an AC power line by the module, operated at nominal operating voltage at 25 degree Celsius (77 deg. F), shall not exceed 20 percent.

9.0 COUNTDOWN FUNCTIONALITY

- 9.1 The module shall be compatible with all types of traffic controllers currently on the market.
- 9.2 The countdown timer section shall have a microprocessor capable of learning or recording the clearance timing when connected to a traffic controller.
- 9.3 When first connected, the module shall blank out the digital display during the initial countdown display "learning phase" while it records the countdown time using the Don't Walk signal indications. 9.3.1. This "learning phase" shall be two cycles or less.
- 9.4 The countdown timer module shall continuously monitor the traffic controller for any changes to the pedestrian phase time and reprogram itself automatically if needed.
- 9.5 The countdown timer display shall start only at the beginning of the pedestrian change interval.
 - 9.5.1. After the countdown timer displays zero, the display shall remain dark until the beginning of the next countdown.
 - 9.5.2 The countdown timer shall display the number of seconds remaining until the termination of the pedestrian change interval.
- 9.6 The countdown timer shall be able to follow the controller through any NEMA defined operations.
- 9.7 The countdown timer display remains synchronized with the signal indications and always reaches zero at the same time as the flashing hand.
- 9.8 The countdown module shall prevent any possible conflicts between the hand/man signal indications and the time display.
- 9.9 It shall be impossible for the display to countdown during a solid hand indicator.
- 9.10 The countdown display shall be located immediately adjacent to the associated hand Icon.

10.0 DELIVERY

10.1 Unit bid prices shall include all delivery costs, including shipper's charges and unloading time, at the following delivery point:

Traffic Engineering
901 N. 6th Street
Lincoln, NE 68508

10.2 Deliveries shall be made between the hours of 7:30 a.m. and 3:30 p.m. on normal City of Lincoln working days.

11.0 TERMS OF AGREEMENT

11.1 Term of agreement shall be one (1) year, June 1, 2004 through May 31, 2005; with option to renew for two (2) additional one (1) year terms.

12.0 SAMPLES

12.1 Any sample when requested will be delivered F.O.B. Lincoln to:

City of Lincoln
Traffic Engineering
901 North 6th Street
Lincoln, Nebraska 68508

13.0 ACCEPTANCE OF MATERIAL

13.1 Orders will normally be made on standard purchase orders issued by the Purchasing Agent.

13.1.1. Orders may be placed by telephone directly by Lincoln Traffic Engineering.

13.1.2. In any event, all orders will be assigned an order number.

13.2 All correspondence, including acknowledgment of receipt of orders, packing lists and invoices, shall carry the order number assigned by the City of Lincoln.

13.3 Contractor shall group materials on his invoices as they are grouped on the City of Lincoln's order.

14.0 WARRANTY

14.1 Shall be for a minimum of five (5) years from date of installation of the Walk/Don't Walk module.

14.2 Shall include shipping both directions.

INSTRUCTIONS TO BIDDERS

CITY OF LINCOLN, NEBRASKA

PURCHASING DIVISION

1. BIDDING PROCEDURE

- 1.1 Bidder shall submit two (2) complete sets of the bid documents and all supporting material. All appropriate blanks shall be completed. Any interlineation, alteration or erasure on the specification document shall be initialed by the signer of the bid. Bidders shall not change the proposal form nor make additional stipulations on the specification document. Any amplified or qualifying information shall be on the bidder's letterhead and firmly attached to the specification document.
- 1.2 Bid prices shall be submitted on the Proposal Form included in the bid document.
- 1.3 Bidders may submit a bid on an "all or none" or "lump sum" basis, but should also submit a quotation on an item-by-item basis. Bidding documents shall be clearly marked indicating the kind of proposal being submitted.
- 1.4 Each bid must be legibly printed in ink or by typewriter, include the full name, business address, and telephone number of the bidder; and be signed in ink by the bidder.
- 1.5 A bid by a firm or organization other than a corporation must include the name and address of each member.
- 1.6 A bid by a corporation must be signed in the name of such corporation by a duly authorized official thereof.
- 1.7 Any person signing a bid for a firm, corporation, or other organization must show evidence of his authority so to bind such firm, corporation, or organization.
- 1.8 Bids received after the time and date established for receiving bids will be rejected.

2. BIDDER'S SECURITY

- 2.1 Bid security, as a guarantee of good faith, in the form of a certified check, cashier's check, or bidder's bond, may be required to be submitted with this bid document, as indicated on the Proposal Form.
- 2.2 If alternate bids are submitted, only one bid security will be required, provided the bid security is based on the amount of the highest gross bid.
- 2.3 Such bid security will be returned to the unsuccessful bidders when the award of bid is made.
- 2.4 Bid security will be returned to the successful bidder(s) as follows:
 - 2.4.1 For single order bids with specified quantities: upon the delivery of all equipment or merchandise, and upon final acceptance by the City.
 - 2.4.2 For all other contracts: upon approval by the City of the executed contract and bonds.
- 2.5 City shall have the right to retain the bid security of bidder to whom an award is being considered until either:
 - 2.5.1 A contract has been executed and bonds have been furnished.
 - 2.5.2 The specified time has elapsed so that the bids may be withdrawn.
 - 2.5.3 All bids have been rejected.

- 2.6 Bid security will be forfeited to the City as full liquidated damages, but not as a penalty, for any of the following reasons, as pertains to this specification document:

- 2.6.1 If the bidder fails to deliver the equipment or merchandise in full compliance with the accepted proposal and specifications.
- 2.6.2 If the bidder fails or refuses to enter into a contract on forms provided by the City, and/or if the bidder fails to provide sufficient bonds or insurance within the time period as established in this specification document.

3. EQUAL OPPORTUNITY

- 3.1 Each bidder agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, ancestry, disability, age, or marital status. Bidder shall fully comply with the provisions of Chapter 11.08 of the Lincoln Municipal Code.
- 3.2 Successful bidder will be required to comply with the provisions of the City's Affirmative Action Policy (Contract Compliance, Sec. 1.16).
- 3.3 The Equal Opportunity Officer will determine compliance or non-compliance with the City's Affirmative Action Policy upon a complete and substantial review of successful bidder's equal opportunity policies, procedures and practices.

4. DATA PRIVACY

- 4.1 Bidder agrees to abide by all applicable State and Federal laws and regulations concerning the handling and disclosure of private and confidential information concerning individuals and corporations as to inventions, copyrights, patents and patent rights.
- 4.2 The bidder agrees to hold the City harmless from any claims resulting from the bidder's unlawful disclosure or use of private or confidential information.

5. BIDDER'S REPRESENTATION

- 5.1 Each bidder by signing and submitting a bid, represents that the bidder has read and understands the specification documents, and the bid has been made in accordance therewith.
- 5.2 Each bidder for services further represents that the bidder is familiar with the local conditions under which the work is to be done and has correlated the observations with the requirements of the bid documents.

6. INDEPENDENT PRICE DETERMINATION

- 6.1 By signing and submitting this bid, the bidder certifies that the prices in this bid have been arrived at independently, without consultation, communication or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor; unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder prior to bid opening directly or indirectly to any other bidder or to any competitor; no attempt has been made, or will be made, by the bidder to induce any person or firm to submit, or not to submit, a bid for the purpose of restricting competition.

7. CLARIFICATION OF SPECIFICATION DOCUMENTS

- 7.1 Bidders shall promptly notify the Purchasing Agent of any ambiguity, inconsistency or error which they may discover upon examination of the specification documents.
- 7.2 Bidders desiring clarification or interpretation of the specification documents shall make a written request which must reach the Purchasing Agent at least seven (7) calendar days prior to the date and time for receipt of bids.
- 7.3 Interpretations, corrections and changes made to the specification documents will be made by written addenda.
- 7.4 Oral interpretations or changes to the Specification Documents made in any other manner, will not be binding on the City; and bidders shall not rely upon such interpretations or changes.

8. ADDENDA

- 8.1 Addenda are written instruments issued by the City prior to the date for receipt of bids which modify or interpret the specification document by addition, deletion, clarification or correction.
- 8.2 Addenda will be mailed or delivered to all who are known by the City to have received a complete set of specification documents.
- 8.3 Copies of addenda will be made available for inspection at the office of the Purchasing Agent.
- 8.4 No addendum will be issued later than forty-eight (48) hours prior to the date and time for receipt of bids, except an addendum withdrawing the invitation to bid, or an addendum which includes postponement of the bid.
- 8.5 Bidders shall ascertain prior to submitting their bid that they have received all addenda issued, and they shall acknowledge receipt of addenda on the proposal form.

9. ANTI-LOBBYING PROVISION

- 9.1 During the period between the bid close date and the contract award, bidders, including their agents and representatives, shall not directly discuss or promote their bid with any member of the City Council or City Staff except in the course of City-sponsored inquiries, briefings, interviews, or presentations, unless requested by the City.

10. BRAND NAMES

- 10.1 Wherever in the specifications or proposal form brand names, manufacturer, trade name, or catalog numbers are specified, it is for the purpose of establishing a grade or quality of material only; and the term "or equal" is deemed to follow.
- 10.2 It is the bidder's responsibility to identify any alternate items offered in the bid, and prove to the satisfaction of the City that said item is equal to, or better than, the product specified.
- 10.3 Bids for alternate items shall be stated in the appropriate brand on the proposal form, or if the proposal form does not contain blanks for alternates, bidder MUST attach to the specification documents on Company letterhead a statement identifying the manufacturer and brand name of each proposed alternate, plus a complete description of the alternate items including illustrations, performance test data and any other information necessary for an evaluation. The bidder must indicate any variances by item number from the specification

document no matter how slight. Bidder must fully explain the variances from the specification document, since brochure information may not be sufficient.

- 10.4 If variations are not stated in the proposal, it will be assumed that the item being bid fully complies with the City's specifications.

11. DEMONSTRATIONS/SAMPLES

- 11.1 Bidders shall demonstrate the exact item(s) proposed within seven (7) calendar days from receipt of such request from the City.
- 11.2 Such demonstration can be at the City delivery location or a surrounding community.
- 11.3 If bidder does not have an item in the area, it will be at the bidder's expense to send appropriate City personnel to the nearest location to view and inspect proposed item(s).
- 11.4 If items are small and malleable, and the bidder is proposing an alternate product, the bidder MUST supply a sample of the exact item. Samples will be returned at bidder's expense after receipt by the City of acceptable goods. Bidders must indicate how samples are to be returned.

12. DELIVERY

- 12.1 Each bidder shall state on his proposal form the date upon which he can make delivery of all equipment or merchandise. Time required for delivery is hereby made an essential element of the bid.
- 12.2 The City reserves the right to cancel orders, or any part thereof, without obligation, if delivery is not made within the time(s) specified on the proposal form.
- 12.3 All bids shall be based upon **inside** delivery of the equipment or merchandise F.O.B. the City at the location specified by the City, with all transportation charges paid.

13. WARRANTIES, GUARANTEES AND MAINTENANCE

- 13.1 Copies of the following documents must accompany the bid proposal for all items being bid:
 - 13.1.1 Manufacturer's warranties and/or guarantees.
 - 13.1.2 Bidder's maintenance policies and associated costs.
- 13.2 As a minimum requirement of the City, the bidder will guarantee in writing that any defective components discovered within a one (1) year period after the date of acceptance shall be replaced at no expense to the City. Replacement parts of defective components shall be shipped at no cost to the City. Shipping costs for defective parts required to be returned to the bidder shall be paid by the bidder.
- 13.3 Bidder Warrants and represents to the City that all software/firmware/hardware/equipment/systems developed, distributed, installed or programmed by Bidder pursuant to this Specification and Agreement.
 - 13.3.1 That all date recognition and processing by the software/firmware/hardware/equipment/system will include the four-digit-year format and will correctly recognize and process the date of February 29, and any related data, during Leap years; and
 - 13.3.2 That all date sorting by the software /firmware/hardware/equipment/system that includes a "year category" shall be done based on the four-digit-year format. Upon being notified in writing by the City of the failure of any software/ firmware/

hardware /equipment /systems to comply with this Specification and Agreement, Contractor will, within 60 days and at no cost to the City, replace or correct the non-complying software/ firmware/ hardware/ equipment/ systems with software/firmware/ hardware/equipment/ systems that does comply with this Specification and Agreement.

- 13.3.3 No Disclaimers: The warranties and representations set forth in this section 13.3 shall not be subject to any disclaimer or exclusion of warranties or to any limitations of Licensor's liability under this Specification and Agreement.

14. ACCEPTANCE OF MATERIAL

- 14.1 All components used in the manufacture or construction of materials, supplies and equipment, and all finished materials, shall be new, the latest make/model, of the best quality, and the highest grade workmanship.
- 14.2 Material delivered under this proposal shall remain the property of the bidder until:
- 14.2.1 A physical inspection and actual usage of this material is made and found to be acceptable to the City; and
- 14.2.2 Material is determined to be in full compliance with the specifications and accepted proposal.
- 14.3 In the event the delivered material is found to be defective or does not conform to the specification documents and accepted proposal, then the City reserves the right to cancel the order upon written notice to the bidder and return materials to the bidder at bidder's expense.
- 14.4 Successful bidder shall be required to furnish title to the material, free and clear of all liens and encumbrances, issued in the name of the City of Lincoln, Nebraska, as required by the specification documents or purchase orders.
- 14.5 Selling dealer's advertising decals, stickers or other signs shall not be affixed to equipment. Vehicle mud flaps shall be installed blank side out with no advertisements. Manufacturer's standard production forgings, stampings, nameplates and logos are acceptable.

15. BID EVALUATION AND AWARD

- 15.1 The signed bid proposal shall be considered an offer on the part of the bidder. Such offer shall be deemed accepted upon issuance by the City of purchase orders, contract award notifications, or other contract documents appropriate to the work.
- 15.2 No bid shall be modified or withdrawn for a period of ninety (90) calendar days after the time and date established for receiving bids, and each bidder so agrees in submitting the bid.
- 15.3 In case of a discrepancy between the unit prices and their extensions, the unit prices shall govern.
- 15.4 The bid will be awarded to the lowest responsive, responsible bidder whose proposal will be most advantageous to the City, and as the City deems will best serve their requirements.
- 15.5 The City reserves the right to accept or reject any or all bids; to request rebids; to award bids item-by-item, by groups, or "lump sum"; to waive irregularities and technicalities in bids; such as shall best serve the requirements and interests of the City.

16. INDEMNIFICATION

- 16.1 The bidder shall indemnify and hold harmless the City, its members, its officers and employees from and against all claims, damages, losses, and expenses, including, but not limited to attorney's fees arising out of or resulting from the performance of the contract, provided that any such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property other than goods, materials and equipment furnished under this contract) including the loss or use resulting therefrom; is caused in whole or part by any negligent act or omission of the bidder, any subcontractor, or anyone directly or indirectly employed by any one of them or anyone for whose acts made by any of them may be liable, regardless of whether or not it is caused by a party indemnified hereunder.
- 16.2 In any and all claims against the City or any of its members, officers or employees by an employee of the bidder, any subcontractor, anyone directly or indirectly employed by any of them or by anyone for whose acts made by any of them may be liable, the indemnification obligation under paragraph 16.1 shall not be limited in any way by any limitation of the amount or type of damages, compensation or benefits payable by or for the bidder or any subcontractor under worker's or workmen's compensation acts, disability benefit acts or other employee benefit acts.

17. TERMS OF PAYMENT

- 17.1 Unless other specification provisions state otherwise, payment in full will be made by the City within thirty (30) calendar days after all labor has been performed and all equipment or other merchandise has been delivered, and all such labor and equipment and other materials have met all contract specifications.

18. LAWS

- 18.1 The Laws of the State of Nebraska shall govern the rights, obligations, and remedies of the Parties under this proposal and any agreement reached as a result of this process.

SPECIAL PROVISIONS FOR COMMODITY TERM CONTRACTS

CITY OF LINCOLN, NEBRASKA PURCHASING DIVISION

1. ESTIMATED QUANTITIES

- 1.1 The quantities set forth in the specification document are approximate and represent the estimated requirements of the City for the contract period.
- 1.2 Items listed may or may not be inclusive of City requirements for this category.
- 1.3 Category items not listed, but distributed by bidder are to be referred to as kindred items. Kindred items shall receive the same percentage of discount or pricing structure as items listed in the specification document.
- 1.4 The unit prices and the extended total prices shall be used only as a basis for the evaluation of bids. The actual quantity of materials necessary may be more or less than the estimates listed in the specification document, but the City shall be neither obligated nor limited to any specified amount. The City will, if possible, restrict increases/decreases to 20% of the estimated quantities listed in the specification document.

2. CONTRACT PERIOD

- 2.1 The material shall be delivered as ordered during the contract period, beginning from the date of contract and ending one (1) year from that date, or as otherwise indicated on the proposal form.
- 2.2 The City is interested in a one (1) year contract, with the option to renew for additional one (1) year periods, not to exceed three (3) such renewals. Bidder must indicate on the proposal form if extension renewals are an option. By mutual consent of both parties it is understood and agreed that the contract may be renewed only at the same prices and/or under the same conditions governing the original contract; and any request for an increase in price or a change in the contract conditions shall be interpreted as a request not to renew the contract at the end of the current contract period.

3. BID PRICES

- 3.1 Bidders must state on the proposal form if the bid prices will remain firm for the full contract period; or if the bid prices will be subject to escalation/de-escalation.
- 3.2 Escalation/De-escalation Clause: In the event that prevailing market conditions warrant an adjustment in bid prices contained in the contract, the following escalation/de-escalation clause shall be the only clause applicable or acceptable to the City:
 1. Contractor shall give written notice to the Purchasing Agent of any proposed changes from contract prices not less than thirty (30) calendar days prior to the effective date of said price changes.
 2. Such notice must be accompanied by a certified copy of the supplier's advisory or notification to the contractor of price changes.
 3. No price escalation will be authorized in excess of the amount of the increase referred to on the supplier's notice.
 4. The approved price change shall be honored for all orders received by the contractor after the effective date of such price change.

5. Approved price changes are not applicable to orders already issued and in process at time of price change.
6. The City reserves the right to audit and/or examine any pertinent books, documents, papers, records or invoices relating directly to the contract transaction in question after reasonable notice and during normal business hours.
7. The Purchasing Agent retains the right to determine whether or not such proposed price changes are in the best interests of the City.
8. If in the opinion of the Purchasing Agent any proposed increase is found unacceptable, the Purchasing Agent reserves the right to cancel the contract upon thirty (30) calendar days written notice.
9. Contractors must tie any price change clause to an industry-wide or otherwise nationally recognized index, or some other form of verifiable document. Contractor will put the Purchasing Agent on the mailing lists for such publication so that the Purchasing Agent can monitor said changes. Such membership will be at no cost to the City.

4. CONTRACT AWARD NOTIFICATION

- 4.1 The Purchasing Division will issue a Contract Award Notification to all successful bidders. Such contract award notification will incorporate the City's specifications, and may incorporate the bidder's specifications.
- 4.2 No action need be taken by the contractors at time of receipt of such Contract Award Notification.
- 4.3 Orders for materials will be made as needed by the various City Departments.

5. QUARTERLY REPORT

- 5.1 The contractor shall provide to the Purchasing Agent a quarterly report, showing all purchases made under the terms and conditions of the contract.
- 5.2 Such quarterly report shall itemize the following information:
 1. Each ordering department.
 2. Items and quantities purchased by department.
 3. Total dollar amount of purchases by department.